

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

11	MONTEREY BAY BOATWORKS )	Case No.: 12-CV-4544-LHK
12	COMPANY, a California limited partnership, )	ORDER SOLICITING SUPPLEMENTAL
13	Plaintiff, )	BRIEFING REGARDING THE
14	v. )	APPOINTMENT OF A SUBSTITUTE
15	MICHAEL FORMICO, and M/V WILD WAVE )	CUSTODIAN
16	(Official Number 550855) and her engines, )	
	boiler, tackle, apparel, furnishings, and )	
	appurtenances, etc., <u>in rem</u> , )	
17	Defendants.)	

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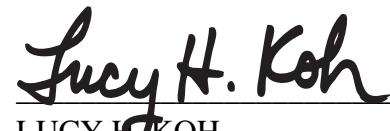
18 Plaintiff Monterey Bay Boatworks Co. ("Plaintiff") has filed an Application for  
19 Appointment of Substitute Custodian and Movement of the Vessel M/V WILD WAVE  
20 ("Application for Custodianship"). ECF No. 4. In the Application for Custodianship, Plaintiff  
21 requests that the Court authorize Plaintiff to provide custodianship and dry dockage at the  
22 Monterey Boatyard at a rate of \$4,000.00 per month, as well as other services including hull  
23 cleaning, insurance, and necessary parts and labor at the standard rates prevailing in the port. *Id.*  
24 Plaintiff has not, however, provided citation to authority showing that the Court may authorize  
25 Plaintiff to take custody of the M/V WILD WAVE and to charge for such services. Moreover,  
26 Plaintiff has not informed the Court who Plaintiff contends will be responsible for the costs of  
27 Plaintiff's services. For example, Plaintiff has not informed the Court whether the services it

1 intends to provide would be recoverable from Defendant Michael Formico, through Plaintiff's in  
2 rem action, as "necessaries" under 46 U.S.C.A. § 31342.

3 Accordingly, Plaintiff is ORDERED to file a supplemental brief: (1) providing citation to  
4 authority for the proposition that the Court may authorize Plaintiff to take custody of the M/V  
5 WILD WAVE and to charge the amounts set forth in Plaintiff's Application for Custodianship; and  
6 (2) stating who Plaintiff contends would be responsible for the costs associated with Plaintiff's  
7 custodianship of the vessel. Plaintiff's supplemental briefing shall be limited to one page.  
8 Plaintiff's supplemental briefing is due September 26, 2012.

9  
10 **IT IS SO ORDERED.**

11 Dated: September 19, 2011

  
12 LUCY H. KOH  
13 United States District Judge